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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PHAM, THOMAS K

ART UNIT PAPER NUMBER

2121

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,132

Applicant(s)

WISCHINSKI, RAINER H

Examiner

Thomas K. Pham

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. This action is in response to request for continued examination (RCE) filed on 07/05/2005.

Quotations of U.S. Code Title 35

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 103

4. Claims 1-3, 5-7, 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication 2002/0029086 ("Ogushi") in view of U.S. Patent no. 6,230,199 ("Revashetti").

Regarding claim 1

Ogushi teaches a system for remote configuration monitoring of an industrial control system (abstract), the system comprising: a device identifier (see FIG. 1, element 108), for determining components of an automation or control device (see FIG. 1, elements 106) included in the industrial control system.

Ogushi does not teach a device identifier periodically querying the device(s) to obtain from the device information identifying at least some of its component hardware, software, and firmware, the device identifier for providing a device database with component identifications for the device; and a device configuration manager, responsive to the component identifications in the device database, and further responsive to available device components in a database of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components.

However, Revashetti teaches a computer system that scans client computer to determine the configuration of the client computer including at least some of its component hardware, software, and firmware, and to generate a client inventory database (see col. 3 lines 39-42); and a scan engine compares the installed devices resident on the client computer with the available product information database (see col. 3 lines 63-66) for providing an offer to upgrade the

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installed product components (see col. 7 lines 15-25) for the purpose of providing information regarding related products to the user of the client computer (see col. 4 lines 26-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the marketing system of Revashetti with the industrial system of Ogushi because it would provide for the purpose of providing information regarding related products to the user of the client computer.

It should be noted that the scanning of current client configuration must occur periodically since Revashetti is an improvement over a prior art as described in column 2 lines 55-59. The improvement is to provide a system that uses the method of the prior art for marketing software, hardware, and related product to users of computer systems (see col. 2 lines 64-67). Therefore, the "periodically communicating" between the client and service provider method of prior art is part of the Revashetti's invention.

Regarding claim 8

Ogushi teaches a system for remote configuration monitoring of an industrial control system (abstract), the system comprising: a device identifier (see FIG. 1, element 108), for determining components of an automation or control device (see FIG. 1, elements 106) included in the industrial control system.

Ogushi does not teach a device identifier periodically querying the device(s) to obtain from the device information identifying at least some of its component hardware, software, and firmware, the device identifier for providing a device database with component identifications for the device; and a device configuration manager, responsive to the component identifications in the device database, and further responsive to available device components in a database of

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available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components.

However, Revashetti teaches a computer system that scans client computer to determine the configuration of the client computer including at least some of its component hardware, software, and firmware, and to generate a client inventory database (see col. 3 lines 39-42); and a scan engine compares the installed devices resident on the client computer with the available product information database (see col. 3 lines 63-66) for providing an offer to upgrade the installed product components (see col. 7 lines 15-25) for the purpose of providing information regarding related products to the user of the client computer (see col. 4 lines 26-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the marketing system of Revashetti with the industrial system of Ogushi because it would provide for the purpose of providing information regarding related products to the user of the client computer.

It should be noted that the scanning of current client configuration must occur periodically since Revashetti is an improvement over a prior art as described in column 2 lines 55-59. The improvement is to provide a system that uses the method of the prior art for marketing software, hardware, and related product to users of computer systems (see col. 2 lines 64-67). Therefore, the "periodically communicating" between the client and service provider method of prior art is part of the Revashetti's invention.

Regarding claims 2 and 9

Ogushi teaches a system diagnostics manager, responsive to the component identifications in the product information database of Revashetti, and further responsive to a third party technical support and diagnostics information database, for providing device status queries, and for updating the diagnostics information database based on responses to the device status queries (see page 2 paragraph 27).

Regarding claims 3 and 10

Ogushi teaches the components of pre-determined automation or control devices are programmable logic controllers (see page 2 paragraph 31 and 32).

Regarding claims 5 and 12

Revashetti teaches a general technical information database, for providing general technical information about products organized by topic, and further wherein the general technical information made about a topic, thereby providing feedback on the usability of products (see col. 16 lines 8-25).

Regarding claims 6 and 13

Revashetti teaches the record of requests for information made about a topic includes an identification of the requester (see col. 16 lines 25-36).

Regarding claims 7 and 14

Revashetti teaches the device identifier queries the devices via the Internet (see FIG. 2, element 204).

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5. Claims 4 and 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogushi in view of Revashetti and further in view of U.S. Patent No. 6,122,639 ("Babu").

Regarding claims 4 and 11

Ogushi and Revashetti teach a system for remote configuration monitoring but do not teach the communication via a wireless access protocol. However, Babu teaches a wireless link can be implemented to provide a two-way data communication (see col. 22 lines 6-20) for the purpose of sending and receiving electrical, electromagnetic or optical signals that carry digital data streams representing various types of information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the wireless communication interface of Babu with the system of Ogushi and Revashetti because it would provide for the purpose of sending and receiving electrical, electromagnetic or optical signals that carry digital data streams representing various types of information.

Response to Arguments

Applicant argues that Ogushi does not teach a device identifier "periodically" querying device(s) from a client computer.

In response to applicant's arguments the scanning of current client configuration must be periodically done similarly to the prior art described in column 2 lines 55-59. Revashetti is an improvement over a prior art to provide a system that uses the method of the prior art for marketing software, hardware, and related product to users of computer systems (see col. 2 lines 64-67). Therefore, the "periodically communicating" between the client and service provider method of the prior art must be part of the Revashetti's invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday - Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450**. Responses may also be faxed to the **official fax number (571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Pham
Patent Examiner

A handwritten signature in black ink, appearing to read 'Thy Pham', with a stylized flourish at the end.

July 25, 2005